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Paper No. 6

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**MAR 23 2007**

**OFFICE OF PETITIONS**

In re Application of  
John N. Vergne  
Application No. 09/773,524  
Filed: February 2, 2001  
Attorney Docket No. 216224.00043

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed March 13, 2001. Since no response was filed a Notice of Abandonment was mailed on October 23, 2003. On September 18, 2006, the present petition was filed, wherein petitioner states that the notices mailed March 13, 2001 and October 23, 2003 were not received because they were mailed to an incorrect correspondence address. Petitioner explains that the wrong Customer Number was provided on filing. A Change of Correspondence Address identifying the correct Customer Number accompanies the petition.

A grantable petition under 37 CFR 1.137(b)<sup>1</sup> must be accompanied by: (1) the required reply,<sup>2</sup> unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

Accordingly, the petition is **DISMISSED**.

<sup>1</sup> As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

<sup>2</sup> In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The correspondence address has been changed as requested. For applicant's convenience, a copy of the Notices mailed March 13, 2001 and October 23, 2003 are enclosed.

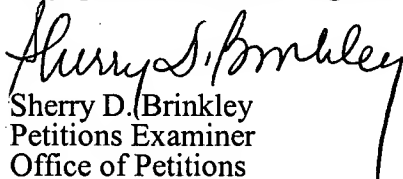
Further correspondence with respect to this matter should be addressed as follows:

By mail:                      Mail Stop PETITION  
                                  Commissioner for Patents  
                                  Post Office Box 1450  
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By hand:                     U.S. Patent and Trademark Office  
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                                  401 Dulany Street  
                                  Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Any questions concerning this decision may be directed to the undersigned at (571) 272-3204.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

Enclosures